



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: York International Corporation

File: B-235079

Date: April 21, 1989

DIGEST

1. Protest that specifications in invitation for bids are unduly restrictive of competition is untimely where it is not filed before bid opening.
2. Protester which submitted a nonresponsive bid is not an interested party to challenge responsiveness of awardee's bid since, even if the protest were sustained, the protester would not be in line for award.

DECISION

York International Corporation protests the award of a contract to Oakbrook Mechanical Services, Inc., under invitation for bids (IFB) No. DABT15-89-B-0010, issued by the Army for water chillers at Fort Benjamin Harrison, Indiana. York contends that the specifications are unduly restrictive and that the awardee's bid is nonresponsive.

We dismiss the protest.

At bid opening on March 20, 1989, the Army received six bids. York was the low bidder. The contracting officer rejected York's bid as nonresponsive because it offered an open-drive centrifugal chiller instead of the hermetic drive centrifugal chiller required by the IFB. Award was made at a price of \$616,991 to Oakbrook.

The protester argues that the specifications were unduly restrictive because they were written so that only one chiller manufacturer could comply with them. York also maintains that open-drive chillers are more reliable and less costly to repair and operate than the hermetic chillers specified.

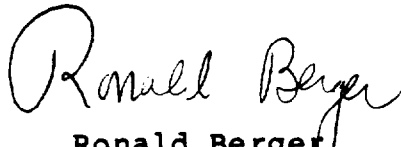
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Our Bid Protest Regulations require that a protest alleging an apparent solicitation impropriety must be filed before bid opening. 4 C.F.R. § 21.2(a)(1) (1988). The requirement for a chiller with a hermetic motor was spelled out in the IFB. York did not file this protest until April 5, well after bid opening, and consequently this portion of its protest is untimely.

York also asserts that the awardee's bid is nonresponsive since the system it will be supplying manufactured by the Trane Company, does not meet several of the IFB requirements such as a three pass condenser and a microprocessor control system.

Under our Regulations, we only will consider a protest by an interested party, i.e., an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract. 4 C.F.R. §§ 21.0(a), 21.1(a). Since York does not dispute the agency's determination that its own bid was nonresponsive, and since there are other eligible bidders which could be awarded the contract if Oakbrook was found ineligible for award, York lacks the direct economic interest necessary to be an "interested party" eligible to protest this matter. Endure-A-Lifetime Products, Inc., B-219529.2, Oct. 11, 1985, 85-2 CPD ¶ 404.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger".

Ronald Berger
Associate General Counsel